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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,194	12/22/2004	Nobuaki Yagi	040894-7146	6809
9629 7590 08/13/2007 MORGAN LEWIS & BOCKIUS LLP 1111 PENNSYLVANIA AVENUE NW WASHINGTON, DC 20004			EXAMINER LOPEZ, MICHELLE	
			ART UNIT 3721	PAPER NUMBER
			MAIL DATE 08/13/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/519,194

Applicant(s)

YAGI ET AL.

Examiner

Michelle Lopez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) 6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

This action is in response to the amendment filed on 1/23/07.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Akizawa 5,009,355.

Akizawa discloses an electric stapler comprising a magazine portion 26, a staple striking portion 7, a driver 5a, and a motor 15; a table 4 supported by a main body frame 1 of the electric stapler, and including a clincher mechanism 5b for folding to bend a leg portion of the staple penetrated through the sheets along the sheets as shown in col. 3; lines 26-28 and col. 4; lines 32-42 (Also, see the Abstract), and a wing piece formed at the table at the vicinity of 17; locking means 6 formed between the wing piece of the table and the main body frame, wherein pivoting force in an opening direction of the table is hampered by engaging the locking means with the wing piece as shown in Fig. 1a (claim 1); wherein the locking means 6 comprises a lock plate 6b including a locking pin 17 engageable with the wing piece at one end thereof and supported by the main body frame at other end side thereof as shown in Fig. 2, and wherein by engaging the locking pin with the wing piece from being pivoted the pivoting force in the opening direction of the table is hampered (claim 2); the locking means further comprises an operating piece 13

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formed at the lock plate and an operating cam 14 arranged to be brought into contact with and to be separated from the operating piece, and a spring (claim 3).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Akizawa 5,009,355 in view of Kanai 5,836,502.

Akizawa discloses an electric stapler with a locking mechanism substantially as claimed as discussed above, but does not disclose wherein the locking means comprises an eccentric cam supported by a main body frame and engageable with a wing piece. However, Kanai shows electric stapler comprising a table supported by a main body frame and having a wing piece 11, and a locking mechanism comprising an eccentric cam 10 engageable with the wing piece 11 for the purpose of actuating the wing piece such that performing a staple driving operation and thereafter stopping the actuation of the wing piece in an opening direction during the staple driving operation as shown in col. 15; 64-67 and col. 16; 1-10. It would have been obvious to one skilled in the art to use an eccentric cam on the locking mechanism of Magnusson's as taught by Kanai to properly lock the wing piece in an opening direction during a staple driving operation.

Kanai also teaches the concept of engaging teeth 54,55 and locking teeth at 52 (claim 5).

Response to Arguments

Applicant's arguments have been fully considered but they are not deemed persuasive. Applicant contends that Akizawa does not disclose a table supported by a main body frame comprising a clincher mechanism for folding to bend a leg portion of a staple. However, Examiner asserts that Akizawa does disclose such table 4 as claimed having a clincher mechanism as a forming member 5b. See the Abstract. Also, see col. 3; lines 26-28 and col. 4; lines 32-42.

For the reasons above, the grounds of rejection are proper.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Yoshie, Coombs, and Mochizuki are cited to show related inventions.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle Lopez whose telephone number is 571-272-4464. The examiner can normally be reached on Monday - Thursday: 8:00 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ML/
Patent Examiner

A handwritten signature in black ink, appearing to read 'Rinaldi I. Rada', with a stylized flourish extending to the right.

Rinaldi I. Rada
Supervisory Patent Examiner
Group 3700